

INDIA ADR WEEK DAY 5: DELHI

19th SEPTEMBER 2025

SIAC Rules 2025: Redefining 'I' - India, Inclusion and Innovation

10:30 AM To 12:00 PM IST

MODERATOR

Mr. Vijayendra Pratap Singh, Senior Partner & Head – Litigation, AZB & Partners

SPEAKERS

**Hon'ble Dr. Justice (Retd.) Dhananjaya Yeshwant Chandrachud
Former Chief Justice of India**

Mr. Gaurav Khanna, Associate General Counsel, Nestle India Ltd.

**Mr. Professor Lawrence Boo, Former CEO and Registrar of SIAC and Professor
at National University of Singapore**

**Ms. Urvashi S. Pathak, Senior Vice President & Head Legal Axis Max Life
Insurance Limited**

Mr. Vivekananda Neelakantan, Registrar, SIAC

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1 **HOST:** The next session is being hosted by AZB & Partners. The topic of the session is SIAC
 2 Rules 2025: Redefining 'I' – India, Inclusion and Innovation. The moderator of the session is
 3 Mr. Vijayendra Pratap Singh. The panellists include Dr. Justice D.Y. Chandrachud, Mr. Gaurav
 4 Khanna, Professor Lawrence Boo, Ms. Urvashi Pathak and Mr. Vivekananda Neelakantan.
 5 May I please request the panellists to please take the stage. Thank you.

6 **VIJAYENDRA PRATAP SINGH:** Good morning, everyone. Can you hear me now? That's
 7 much better. Thanks. Good morning, everyone. I think breakfast, early mornings and meetings
 8 don't always meet and make a great friend for us. Thank you for coming in this early. Delhi is
 9 not a city that is known for its early risers. Therefore, we do appreciate you making your time
 10 to come here. We have a very interesting panel because we are going to deal with the logos, the
 11 ethos, and the chaos of arbitration and how the 2025 Rules of SIAC deal with this and provide
 12 a solution. But unlike most of the other sessions, we've got our own *tadka* to it, it's India First.
 13 And in order to take you through this journey and the journey of the rules and how we see the
 14 future, we have an eminent panel.

15 The gentleman on my left needs no introduction, he has been a consent custodian in his
 16 various avatars, whether it be as a counsel, a law officer, a Judge, the Chief Justice of this
 17 country, and now a private citizen of the Bench. In his journey, he has ensured that the
 18 discourse with respect to rights and consent are always fostered, but also he's in short consent
 19 is truly modernized when it comes to arbitration in terms of his judgements with respect to
 20 the group of companies, his course correction in the Supreme Court with respect to two things
 21 which had effectively stamped out arbitration in India. The ***N.N. Global*** judgement within
 22 four, by five months of the previous one, which had effectively done a full stop or had put
 23 arbitration into a coma, and the core judgement, which finally dealt with the issue of conflict
 24 and said that it's about time that we find friends who are not too close. With that, I would like
 25 to welcome Justice Chandrachud to this panel. Thank you, sir, for having coming in.

26 Next, we have Gaurav Khanna. Gaurav, other than being a very close friend and a partner for
 27 Chhola Bhaturas is also the Associate General Counsel for Nestle. He's had a distinguished
 28 career, both as a litigator and transactional lawyer. For the past 18 years, he has been at the
 29 forefront of taking money from me as the guy who sells Maggie with Nestle India, and he's
 30 made a lot of it. He has in this role supported a pan India operation across the country on
 31 indirect taxes, transactional work, food and tax litigation. His contributions include paying a
 32 pivotal role in the successful closure of the Maggie noodles litigation, before which my son was
 33 very happy, and steering the implementation of the GST compliance for Nestle and is actively
 34 driving multiple M&A transactions for the company. Beyond his corporate responsibilities,

TERES

1 Gaurav continues to share his expertise as a speaker at legal conferences and webinars, making
2 him not just a practitioner, but also a thought leader in the field.

3 Then I have the man who sums up arbitration in Singapore. He's been an institution and has
4 been the predominant practitioner with respect to arbitration in Singapore and has shaped
5 how that market has developed. He has been a pioneer whose awards and teachings have
6 shaped arbitration not only in Singapore but across continents, and we've had a benefit of
7 number of those here. He has sat as an Arbitrator in more than 350 cases and written
8 numerous awards. His cases include those administered by AAIC, CCI, ICSID, CIETAC, SIAC,
9 LCIA, KLRCA, BANI, HKIAC and *ad hoc* arbitrations. He was designated by Singapore to the
10 Exit Panel of Arbitrators since 2013. Prof. Boo leads the teaching of international commercial
11 arbitration at the Faculty of Law, National University of Singapore since 1994. He is also an
12 honorary professor at the School of International Law, East China University of Political
13 Science and Law. For his contributions to the development of international arbitration and
14 mediation, Professor Boo has been conferred the honour of the Public Service Star in August
15 2009 and the Public Service Star Bar in 2022 by the president of Singapore. Thank you,
16 professor. We look forward to hearing your moments of learning and teaching, but before a
17 different audience.

18 Next, we have Urvashi Pathak. Urvashi is a Senior Vice President and Head Legal at Axis Max
19 Life Insurance, where she leads the company's legal and secretarial function with extensive
20 cross-sectoral experience across insurance, hospitality, real estate, aviation and technology,
21 that's a mouthful. She has managed high stake arbitrations and litigations across multiple
22 jurisdictions, alongside steering complex global transactions and fund raises. Urvashi is an
23 alumina of London School of Economics and GGSIPU, a published author. She has assisted in
24 co-authoring a book called *Escaping the Labyrinth, Principles of Taxation*, which was
25 published by Wolters Kluwer and has written articles on legal and regulatory issues. She's a
26 frequent speaker at leading legal forums and a strong advocate for diversity and inclusion,
27 mentoring women leaders through the industry and organizational initiatives. She also serves
28 on the general body of Vidya Sagar, formerly The Spastics Society of India an NGO, based in
29 Chennai. Urvashi, thanks for coming over. And we do hope to see the diversity not just by you
30 sitting there, but in your contributions as well.

31 Last, is my good friend Vivek. And, Vivek, in his present avatar is the Registrar of the SIAC.
32 He heads the Secretariat. He has 18 years of experience in International Dispute Resolution
33 and arbitration. Prior to joining SIAC, he was a partner at a leading firm in Singapore and
34 regularly acted as Counsel in International Arbitrations conducted under various institutional
35 rules. You would not remember this, but the first set of ears which were seated abroad were

TERES

enforced by a team where Vivek was a part of the think tank that allowed for that to be brought to India or onshore that relief. Vivek has also acted as an Arbitrator. And has been appointed as an Emergency Arbitrator and to three member and sole Arbitral Tribunals. Thanks, Vivek, for coming in. He's also been involved with the upgradation of the rules, and we are going to get into that in a moment.

My first question is, with this focus, we are definitely talking India First, and in that regard what my first question is, is to Justice Chandrachud. Justice Chandrachud, do you see whether institutional arbitration has presented itself as a capable alternative to Courts in India, especially the SIAC, in its rules and its formulation, including through Emergency Arbitrators etc.?

JUSTICE D.Y. CHANDRACHUD: Thanks very much, VP. Your question really is to what extent Institutional Arbitration is an effective substitute for Courts. Well, it is, as I will shortly say in a moment. But I look at it as from a broader perspective, that Institutional Arbitration is desirable not just because it is a substitute for Courts. What Institutional Arbitration does, and I think SIAC is a prime example, is that it picks up from the positives of the Court system. And what are those positives? The existence of infrastructure. Second, the existence of accountability of persons who man the system, and third, the element of having an institutional approach to adjudication. So, these are the three facets which Institutional Arbitration really provides for.

What is the benefit then? It also obviates the problems of Courts. It obviates the chief problem of Courts which is the burden on Courts, because the same Courts as we see in India who deal with complex commercial disputes are also determining as to whether bail should be granted in a rape case. Now, Courts have their own priorities because you say prioritize a case involving the grant of bail or personal liberty, perhaps more than Commercial Arbitration, because the same Judges are going to decide that. And this burden on the Courts really is a huge problem of the Court system, which Institutional Arbitration seeks to avoid. It also avoids the problems of *ad hoc* arbitration, which is the lack of accountability in *ad hoc* arbitration. So that's the first aspect which we need to really focus upon.

The second point, which I want to make is that, the arbitration universe is in that sense, particularly in the context of the Institutional Arbitration. The arbitration universe is greater than the sum of its parts. We are stakeholders in the arbitral system, whether as Counsel, whether as Arbitrators, whether as Clients. As Arbitrators, we look upon our work as providing an efficient and streamlined conduct of the arbitration proceedings. As Lawyers, we want to provide the best services to Clients in an intensely competitive environment, and Clients are

TERES

the consumers of the adjudicative process in an arbitration or the mediative process in an arbitration proceeding. But what happens is this, and this is where I think the SIAC Rule. This is just a preliminary point which I want to make. And there'll be other questions as well. What the SIAC Rules have done is to highlight that over and above the needs of Counsel and Arbitrators and Clients, there is something much wider which is necessary to have a successful Arbitral institutional mechanism.

First, the rules of the product of extensive stakeholder consultation, which you can never have in *ad hoc* arbitration, and which even Courts cannot have because Courts are too hidebound by other requirements of being an Organ of the state in a wider sense. Second, the SIAC Rules, for instance, would greatly benefit and have benefited by the extensive database of over 3,000 arbitrations which have been conducted. So, you have this database. You have the database which provides for, not just on merits, the substantive aspects or outcomes of the arbitration, but the database about how the arbitration proceeded. How can you modify the rules to make arbitration more effective? Look at questions like diversity of Arbitrators. Now, something which is in the nature of an *ad hoc* system can never work on diversity because the two Parties choose an Arbitrator. And why would they choose someone, say, based on gender or marginalization or sexual orientation? But when you talk of an arbitral institution, these are critical features of the arbitral institution. You've mentioned some of the very critical changes which have been made by the SIAC Rules of 2025, and I'm not going to go into them. But I'll just identify them because I'm sure we're going to be discussing them.

First, the importance of Preliminary Protective Orders. PPOs. An Indian Court. You go to an Indian Court for a Section 9 application and you realize how difficult it is to even get a hearing because Courts are overburdened. Now, of course, the Supreme Court in **Amazon** recognized that the enforceability of emergency arbitral awards, particularly where it's an India-seated arbitration. Second, the rules have made a huge difference in bringing together a streamlined and expedited procedure. Fast track arbitration capped costs, particularly very important in the context of MSMEs smaller organizations. International Arbitration is not about just huge conglomerates of corporate bodies who want to arbitrate, you also have medium sized enterprise in India for whom arbitration should become viable. So, the capping of costs, limited procedural steps. That's a second thing. The third, which I think I should emphasize is the third-party funding disclosure in Rule 38, which has been a critical change. We already knew that there was third-party funding but we've now brought it out in the open. SIAC has to be complemented for bringing this out in the open by providing for express rules in regard to third-party funding disclosures. Fourth, the preliminary determination mechanism, resolution of threshold jurisdictional issues within a time bound period of 90 days. And fifth, Rule 17, which provides for coordination of related arbitrations before the same Tribunal. That

TERES

has a flip side. If one Arbitral Award goes wrong, everything goes wrong together with it, as we have noticed in recent cases. But just the fact that you have in today's infrastructural space in India, you find multi-project Contracts. Same issues, similar issues, same Parties, and why should you have different Tribunals going into it? So, I think these rules, which have been brought into force in January 2025 are truly forward looking and their impact is not just in terms of the work which SIAC is doing, but they will serve as a paradigm.

Now, I believe, for Indian institutions as well. Indian institutions, which can really learn so much from these rules, which, and I think that's the spirit, which SIAC also embodies that they're not holding these rules close to their chest, but hope that these will be employed in other parts of the global south as paradigms for dispute resolution.

VIJAYENDRA PRATAP SINGH: There you have it. In terms of understanding, I think Justice Chandrachud has quickly put it in his usual style. The five fingers come together to make a fist to take care of disputes. Vivek, my next question is to you. What was the ethos behind the overall of the SIAC Rules 2025 and how do these changes effectively elevate the SIAC status as a preferred arbitration service provider to the world, in general, but to India in particular?

VIVEKANANDA NEELAKANTAN: Thank you, VP. And very good morning, everyone. I'd like to say, and I hope you can think of us, the Arbitral institution bit like the device we all carry around in our pockets. It has a user interface, which for us is the people you interact with, people in the Secretariat, people in our offices in India and elsewhere, but it has a software that it runs on, and for us, the software is really the rules on the basis of which we manage, administer cases at the institution. And as with any software, it requires updating from time to time.

Way back in 2010 when we introduced the Fourth Edition of the SIAC Rules, I would say since that point in time we have been at the forefront of innovating procedures into the rules to provide tools for Parties and Tribunals to achieve efficiency in the conduct of arbitrations. We were amongst the first institutions to introduce the expedited procedure, which is a six month fast track procedure for small value, low complexity claims in the 2010 Rules, and we've had that now for over 15 years, handled over 1,000 applications for the expedited procedure. In 2010, we also reduced the Emergency Arbitrator mechanism as a means of obtaining urgent interim relief from a person specifically designated for that purpose, who's the Emergency Arbitrator. In 2014, we introduced the arbitration mediation arbitration protocol, which is a means of combining the benefits of arbitration and a structured mediation process in a Dispute Resolution Clause and therefore in the conduct of the process.

TERES

In 2016, recognizing the prevalence of multi-party, multi-contract disputes like Justice Chandrachud mentioned in the commercial world, who introduced provisions for consolidation of arbitrations and the joinder of non-parties to an arbitration. At the same time, we also introduced provisions for early dismissal, which allows you to strike out claims and defences that have no merit whatsoever or are manifestly outside the Tribunal's jurisdiction. So, these are all innovations that have been focused on ensuring that parties can reach a quicker resolution of their disputes in arbitration. So, the 2025 rules, from my point of view, is not just an update, but it's also the clearest articulation of our commitment to what, I call the four E's. And in keeping with the title of the topic, which are the three I's. The four E's that we think are crucial and must be the objectives of any arbitral process are efficiency, of course, but excellence in terms of the quality of case management and institutional oversight of an arbitration and the quality of the decision-makers that are being appointed to arbitrations. And we'll talk about that in just a moment. The third is enforceability, is because you can go through a process that is quick, that is fair. But if you don't get to an award, that is enforceable at the end of the day, the whole process is quite useless. And the last I would say is the experience, is the user experience with arbitration. And the focus in the 2025 rules on providing a user-centric arbitration.

So, these principles are set out in as many words in Rule 3.5 of the 2025 Rules when it says that Parties, Tribunals, the Institution, and everybody associated with the arbitration process must endeavour to ensure the fairness of the proceedings, must endeavour to ensure the cost-effective and expeditious conduct of the arbitration, but proportional to the complexity of the dispute and the enforceability of any award that is made in the arbitration. So, in keeping with these principles, of course, we have introduced a slew of new provisions and procedures like Justice Chandrachud enumerated the five key new procedures; being, one, the streamlined procedure which provides you with the ability to conduct a three-month fast-track arbitration process for very low value claims less than about INR 6 crores, about SGD 1 million. And even in designing the streamlined procedure, the consciousness was that you do not require a Rolls Royce kind of procedure for every arbitration. The streamlined procedure is designed to be conducted on the basis of documents and submissions only as a default, and you can introduce means for document production, Fact Witness evidence, Expert Witness evidence, or even a hearing only if necessary. So, the default you desired in documents and submissions, and that's our way of signalling that claims of that nature should be conducted in a short time frame, and in that particular manner.

The second is the PPO, of course, which is a means of obtaining *ex parte* urgent interim relief from an Emergency Arbitrator. And then you have the preliminary determination mechanism, which is again a cue to Parties and Tribunals to say, consider deciding discrete issues at an

TERES

early stage, which can contribute to disposition of other issues that may arise in the arbitration, and noting that Parties and Tribunals maybe are not doing that enough already in arbitrations. So that's our way of signalling to the ecosystem that this is perhaps what is necessary to ensure efficiency. And then, you have coordinated proceedings as a further fail-safe against the consolidation provisions, or if you cannot consolidate Arbitrations, you can at least coordinate them procedurally, synchronize them, and ensure that there is consistency of decision-making across multiple arbitrations.

So, there are, of course, a number of other changes to the rules which time doesn't permit me to speak about. But all of this is, of course, based on, like Justice Chandrachud said, our experience with administering thousands of arbitrations under the 2016 Rules. The learnings from that, the consultation process that we underwent over the course of over a year and guidance from members of our Court, including VP, Professor Lawrence Boo here, who devoted their valuable time to deliberating every single change in the rules and considering how that is useful from a user point of view, from a practitioner point of view, from an institutional point of view, and that guidance really defined many of the changes that you see in the SIAC Rules today.

But speaking of innovation, the last point I'll make is that, just two weeks ago we launched a protocol for arbitrations in the insolvency space to allow the arbitration of insolvency related disputes and disputes emanating from an insolvency proceeding. So, we are constantly thinking of ways that arbitration can serve the user at the end of the day because I think we are quite conscious that we are a service provider in the arbitration ecosystem, and anything that the institution does in the rules, in the procedures, in the processes must answer the four questions that Parties typically have when they get into a dispute is: how long is it going to take? How much is it going to cost me? Am I going to have an enforceable decision that gives me the relief at the end of the day that I'm looking for? And am I going to have a fair process? So, every service provider, we believe, must look to answer those questions in anything you design by way of process or procedure. I'll pause there VP and hand the time back to you.

VIJAYENDRA PRATAP SINGH: That's actually a great layout for what went in, but there's always been this thing about fairness and how fairness can be compromised at times. And my question goes to Professor Boo. You've been there in the institutional journey of SIAC, involved in various capacities. During the formulation of the present 2025 Rules, how do you think? How did you balance out concepts like consent, natural justice, an opportunity to a party to present its case when innovation such as PPOs, streamlined procedure and expedited procedure were thought of and introduced in these rules?

TERES

1 **PROF. LAWRENCE BOO:** Thank you. I must say that it should not be addressed to me, but
 2 as the SIAC Court. The President is also here. But the question that we have to consider
 3 whenever we make any root change, any amendment or any new innovation, they must be user
 4 focused. Must always be the interest of what the Parties are looking for. We look for efficiency,
 5 enforceability. We look for fair play. We make sure that we always ensure that the Parties have
 6 a right to decline to apply the rule, for example, they can always opt out. In fact, a lot of all
 7 these rules, Parties have the option to opt out of it if they so decide that it's not for them. But
 8 also in each of these, we make sure that the new innovations to it, I must say that it's always
 9 to shorten the process for smaller claims. Like what Vivek say that not every case got to be
 10 treated in a Rolls Royce manner with red carpet. Best places and the best meals, it's not
 11 necessary. You got to treat them as what users need.

12 So, with that in mind, the rules are crafted following a consultation, and I would say that what
 13 Justice Chandrachud have observed. First, it came from the experience of Counsel, the
 14 Secretariat who spanned by one of the brightest, most very bright lawyers, young lawyers who
 15 are actually working every day, looking at the world, looking at how Arbitrators are conducting
 16 their arbitration process, learning from their mistakes and their good practices, and calling
 17 them, putting them together, and then they formulated some drafts and consolidate it for
 18 consultation, getting feedback. They even sometimes interview some Arbitrators to find out
 19 what the best practices and, of course, gathering all this together. They come with a draft, and
 20 thereafter followed by public consultation with the feedback. It is a very widest public
 21 consultation I've seen, at least based on Singapore's experience. And, a lot of consultation and
 22 feedback were given, and they were taken very seriously because when it was returned, it was
 23 then circulated again and SIAC formed many subgroups teams to actually debate them. The
 24 President was there looking. She divided us. Make sure we work. Every one of us has... every
 25 member in the SIAC Court, a place in the team, and we have to meet at least three times to
 26 discuss the various issues of a place given to us to discuss, and we then give our feedback, and
 27 then we went again to be reconsolidated and before it went to the plenary session in the ICC
 28 Court meeting in 2023, I think, yeah. So, it took a long time. It took a long process and the
 29 whole process to ensure that users comfort and that there's no compromise in ensuring there's
 30 fair play. So that is the ethos. And thinking behind all this.

31 And let me just add on to what you just said about the I being India. Let me just say that when
 32 SIAC comes to India in 2004, 2005. It's almost 20 years now. And when we had our first event,
 33 here was a huge event, there were 500-600 boys. The President of India at the time was Dr.
 34 Kalam or something like that, yeah. It was an exciting event, but it was a seating event. And
 35 look at what happens now. In early days when we see *ad hoc* arbitration in India, we really
 36 find this. It was lawyers are all complaining, but now when they get excited about institutional

TERES

1 arbitration, about SIAC in particular. I'm very happy, of course, with that. And as you develop,
 2 you find that Indian lawyers are now seen not just in India, but outside India, in international
 3 arbitration. And I think you got to add that into the plus point of institutional arbitration. It's
 4 institutional arbitrations, that help Indian lawyers to be appearing in many arbitrations
 5 elsewhere outside India. And I hope one day will come where Indian lawyers will be
 6 representing non-Indian Parties outside India, and that will be a great leap forward.

7 **VIJAYENDRA PRATAP SINGH:** I think that's the motto that we should take from this
 8 room. You have everyone sitting here with some aspiration. That's the aspiration that we
 9 should have - a truly international Indian lawyer. You should not just be world famous in India,
 10 you should be world famous in the world. And taking this forward. Thank you, Professor Boo.
 11 You've summed it up very well by saying that there should be a voice and there should be a
 12 choice. So, my question goes out to my friends on the panel who come from the users. Are you
 13 biting all these innovations? Does it make sense for you to look at PPO, expedited procedure
 14 and document only procedures? I'll first go to Urvashi and then follow it up with Gaurav.

15 **URVASHI S. PATHAK:** So, absolutely VP. In fact, all the in-house Counsels sitting here
 16 would agree with me that this is a very welcome move and the tools that have been deployed
 17 by the SIAC 2025 Rules have actually fostered this entire bid on transparency, effectiveness
 18 and efficiency. So, when we look at the expedited procedure as such, it actually aligns with the
 19 business objective of speed and cost. For any company, when there's a prolonged dispute as
 20 such, what happens it erodes not only the cost, but it also has a reputational impact, it has an
 21 impact on relationships. So, when the issues at hand are narrow and claims are mostly factual,
 22 these entire procedures, where we can have an expedited procedure or a paper arbitration
 23 really works in terms of saving costs, in terms of saving time.

24 Similarly, the PPO that SIAC has introduced, again is a welcome move because imagine
 25 getting, like Justice Chandrachud said, getting injunctive relief within 24 hours of filing an
 26 application. Not going to Courts, not going to national Courts that you're not used to for a
 27 Section 9 like order. And in terms of fairness and transparency, I would say that again, it's
 28 great because for getting a PPO even though it's *ex parte*, you have to inform the other side
 29 within 12 hours. If you don't do so, you are at a risk of the interim order getting vacated. Again,
 30 there is a finality there when the Emergency Arbitrator gives his award again within a time
 31 bound manner of 21 days. So absolutely a welcome move.

32 **VIJAYENDRA PRATAP SINGH:** Gaurav?

TERES

1 **GAURAV KHANNA:** I completely echo what Urvashi said and hearing Justice
 2 Chandrachud, Professor Bho and Vivek. I was just thinking that all the things that I had in
 3 mind, I'm getting a solve for all those because when we look from a business perspective, we
 4 are here to do business and not to litigate. That's the philosophy that we have. And in case we
 5 have to litigate, my philosophy on litigation will revolve on Vivek taking something from your
 6 four E's on four C's is basically it has to be cost effective, there has to be certainty on the
 7 procedure, timelines and outcomes, it should be conclusive. It should not be a hanging sword
 8 on me for years to come. And then the big point, which Urvashi also raises on the
 9 confidentiality of it. So, I would not like to wash my linen open. That's the key thing that we
 10 have to keep in mind. And hearing Justice Chandrachud, a couple of things, we fully respect
 11 our judicial system, but there are some little not so great experiences, little sour experience to
 12 share. And I think we have a solve here in the SIAC and other alternate dispute resolution
 13 mechanisms is to say, one of my 7 11 application pending since 2014 and I don't have an
 14 answer as being in-house Counsel, why it is pending? But it's not getting decided. Or a
 15 39(1)(2) application being filed doesn't get decided for next three months, and then you land
 16 up filing a suit for damages. What answers you'll have?

17 Similarly, as in my earlier avatar when I was practicing Counsel. In a Concession Agreement,
 18 we have an arbitration clause, which was running into 15 pages. That clause, which is supposed
 19 to solve the dispute, became a dispute in itself. Or, to give one more example is an interim
 20 relief was granted by a High Court and then for me to force the party to enter into an
 21 arbitration took us nine months. But then the arbitration was before the ICC in London, it got
 22 settled within six months with clear cut terms of reference, everything being decided. So, I
 23 think the issues that we have for, and there are all for right reasons. It's not that anyone wants
 24 to delay it, but there are reasons why things get delayed. And I think alternate dispute
 25 resolution mechanisms sits very well and occupies that space between the gap that what we
 26 see here. And, as explained very well, emergency arbitration, protective orders will all help
 27 business take firm positions and move ahead and do what they are best doing it, which is
 28 business.

29 **VIJAYENDRA PRATAP SINGH:** So, ladies and gentlemen, you've heard it from the users,
 30 the practitioners. It's not the cost of doing business... It's not the ease of doing business that is
 31 also important alone. It's the cost of doing business, and that's what everyone's looking at. So
 32 let us check this from Justice Chandrachud. As a Judge, how do you see it in your new avatar?
 33 You've acted as a Judge, you've now acted as a present day Arbitrator. What are your views
 34 with respect to a preliminary protective order permitting an Emergency Arbitrator to grant an
 35 *ex parte ad interim* protective order? Do you think it's kosher for our courts here? Will it meet
 36 Must?

TERES

1 **JUSTICE D.Y. CHANDRACHUD:** When I was a young lawyer in the Bombay High Court,
 2 we had this practice of having *ex parte* applications at 02:45, which was right after lunch. Now,
 3 interestingly, though they were called *ex parte* applications, they were never *ex parte*. You
 4 always serve the other side, because the Defendant was always in Mumbai, which was why it
 5 was the original side of the High Court. You serve them and you moved your *ex parte*
 6 application. Now, the reason I'm mentioning this is that what the preliminary protective
 7 orders really have put into place as a mechanism, is that you have first the power to grant relief
 8 expeditiously, and that's crucial for users, for parties who are using the system. Because there's
 9 an urgent need to protect or preserve assets, preserve evidence which may be otherwise
 10 destroyed, and third, enforce contractual obligations, make sure that the contract in a given
 11 case continues to be performed. So, you may have what may appear to be a mandatory order,
 12 but really an order which preserves contractual obligations. But equally important as the
 13 power to grant relief expeditiously, is the power to vary the relief, which has been granted
 14 expeditiously as well, because you look at it from the perspective of the Respondent. And that's
 15 why I began by mentioning the time when we were young lawyers, of course, that gave us a lot
 16 of quick money as young lawyers when we didn't have much work because we could move
 17 these *ex parte* applications. So, the power to vary an order which has been passed *ex parte* and
 18 to vary the order expeditiously is equally important to preserve the fairness of the process,
 19 which is what the SIAC Rule really does, because my experience as a Judge in India was that
 20 Judges are very reluctant to now grant *ex parte* orders because they know that once an *ex*
 21 *parte* order is passed, it tends to perpetuate itself.

22 Just to give you two examples, particularly for our colleagues who are from overseas. We had
 23 statutes in India which said that if a case is not heard within a certain stipulated period, the *ex*
 24 *parte* order which has been granted would be automatically vacated. Now, this is particularly
 25 in our financial statutes. The Supreme Court said that this statutory provision mandating the
 26 automatic vacation of an *ex parte* order cannot be enforced when the party is not at fault. Look,
 27 I've got an *ex parte* order, I'm ready to go on with my hearing, but the Court doesn't have time
 28 to hear me. So how can you mandate that the *ex parte* order would stand vacated?

29 Second, in the context of *ex parte* judicial orders, there was a judgement of the Supreme Court
 30 in a case called ***Asian Resurfacing***, which said that if you don't get a hearing on an *ex parte*
 31 order within a stipulated period, the *ex parte* order would be deemed to be vacated after 90
 32 days. We overruled the judgement, saying again, how do you blame a Party? The Party is all
 33 ready to go forward for a hearing, but if you don't get a hearing in a Court, and then you tell
 34 that Party that your *ex parte* order is vacated automatically, that's against an injustice to the...
 35 So, you see, I've tried to sort of highlight you what the problems in the Court system were. So,
 36 the importance of the preliminary predictive orders is both from the perspective of the

TERES

1 plaintiff, the Claimant. The Claimant needs an immediate order for preservation of assets, for
 2 preservation of evidence, for preservation of contractual obligations. But equally, there is
 3 fairness to the other side as well, because if an order has been obtained unfairly by a Claimant
 4 who has sort of overreached the process because you've heard only one party when you pass
 5 the preliminary protective order. It preserves fairness to the other side by ensuring that the
 6 Respondent has to be served. As Urvashi said, it has to be served within a certain stipulated
 7 period, 12 hours, and you can apply for vacating the order. So, both aspects, I feel, are critical
 8 to the balance, which the SIAC Rule seeks to preserve, and which my experience as a judge
 9 was that Courts are not just able to preserve that sense of balance of fairness towards both the
 10 sides.

11 **VIJAYENDRA PRATAP SINGH:** That's a very candid reflection on the position of the
 12 burden that our Courts have, and rightly so, because we also deal with problems of a billion
 13 people. Now, when there are problems of a billion and there are disputes of a million or
 14 millions, my next question goes to Professor Boo. What is your advice to Indian counsel when
 15 you look at the new preliminary protective order mechanism? How should they use it in terms
 16 of balancing it out against the right to go to Court under Section 9 or wait for the Tribunal to
 17 be set up under 17? What kind of do's and don'ts or caution tales do you have, because with
 18 great power, comes a great responsibility?

19 **PROF. LAWRENCE BOO:** The power to grant... Under the rules, of course, one can... Under
 20 SIAC Rules, you can go to the Tribunal to seek the expedited, sorry, the Emergency Arbitrator
 21 to get a protective order. Right? So, one has to look at whichever is faster. Firstly, whichever
 22 is faster. If you think going to the Courts, whichever Court has jurisdiction for that property or
 23 over the Party, then that might be fast. But it probably is faster before Emergency Arbitrator
 24 and to get an *ex parte* preliminary protective order.

25 Like what Justice Chandrachud said, it's actually not really *ex parte* because it is a preliminary
 26 order. In other words, before the actual order interim measure is given. It is an order for
 27 preservation. Hold your hands. Do not call a bank guarantee. Do not sell off the shares. Do not
 28 burn it off. That kind of order. So, it really does not deserve the label Parties are giving, lawyers
 29 are giving to it. Lawyers who don't like it call it *ex parte*. It actually isn't *ex parte*, it's a holding
 30 order. It's a temporary holding order. So, I would say that for lawyers, whether in India, or
 31 anywhere else, the first question you ask is whether it is urgent enough for you to do that? And
 32 if it is so, do so before the Arbitral Tribunal... sorry, the Emergency Arbitrator. Because that's
 33 probably the fastest way to get it. You can always go to Court. Of course, when a Court, it may
 34 take time, whereas in a situation where there's a PPO, the other party, if you are the other
 35 party, of course, it's fast for the applicant. Whereas the other party, you can always

TERES

1 immediately respond and say that “We want to come for a hearing. We want to have the
2 application heard.” So, the Respondent thus can expedite the matter further by saying that
3 “We can't have this for more than 24 hours, we need to come forward and have it argued.” So
4 there is also the advantage of applying it to an Emergency Arbitrator. The Emergency
5 Arbitrator should be able to be activated immediately to hear the case. So, the last thing called.
6 You may have to get an appointment. We don't know how long it will take. So again, it's all
7 timing issue. So I would say that it's an easy decision for lawyers.

8 **VIJAYENDRA PRATAP SINGH:** Ladies and gentlemen, that's valuable advice based on
9 experience, because, as they say, experience is a comb life gives you when you go bald, and this
10 comes from a fair amount of experience on why, where and how you should apply. That brings
11 me to my next question to Urvashi. How can Indian Council, in your experience, deploy
12 preliminary determination early dismissal tools which are now present in the rules to narrow
13 in an efficient manner and achieve your objective of expeditious and cost-effective dispute
14 resolution?

15 **URVASHI S. PATHAK:** So, I would say that both preliminary determination of claims as
16 well as early dismissal are game changers if they're used responsibly and strategically. I have
17 two practical examples, so when you have these large commercial disputes, you tend to have
18 sprawling claims. You claim for the sun, the moon, the earth and everything in between. But
19 what happens is, when unmeritorious claims are actually pulled out, you realize there's a
20 reality check that happens. So, there was this arbitration that we were doing, this was a large
21 arbitration, and there was this preliminary determination of claims that happened; and it
22 made both Parties actually realize that both have... they would tend to lose a lot if tomorrow
23 something were to go against them. So, we actually asked for suspension of arbitration, both
24 Party for 60 days. So both Parties sat across the table, thrashed the points out, got to a
25 settlement, signed the settlement deed and went and filed it before the Arbitrator. So, in terms
26 of costs, in terms of timelines, in terms of energy, you saved a lot.

27 The other one was a very interesting situation we were in. So, when we went into arbitration,
28 we realized that it was governed by the LCIA 2014 Rules. And, that's when I realized how
29 important it is to actually understand the rules that you're incorporating into your Arbitration
30 Clause, because the 2014 Rules actually had an aberration when you talk about the Joinder of
31 Parties, which actually got corrected in the 2018, where usually you have commonality of
32 claims or it has to be between the same Parties through the same transaction, etc. But
33 somehow, 2014 allowed Joinder of Parties without meeting these thresholds. And the
34 arbitration had started, and suddenly, out of the blue, there was a Joinder application that was
35 filed, and the entities were not related, while the agreement was somewhat similar, again,

TERES

1 claims were completely different. And then the Arbitrator had very wide powers to grant
2 whatever he wished. So, what happened? There was that the Arbitrator allowed the Joinder,
3 considering that it may have been cost-effective for all the Parties to be heard together and the
4 claims can be heard one-by-one. He recorded the fact that the claims of the third-party who's
5 trying to join in was not very clear. So, giving them directions on clearly articulating the claim.
6 But at the same time, he also asked the costs of the adjudication of the application to be borne
7 by the Claimants. So, what happened then was we saw the third-party withdrawing the
8 application, the Claimant as such, also realizing that the claim that he was making was not that
9 solid. So, all of these aspects again brought us to the negotiating table and settled the dispute.

10 If we didn't have these, VP, and if we wouldn't have used them at the right time, we would have
11 ended up spending a lot of money because international arbitrations, as we know, can really
12 bleed you.

13 **VIJAYENDRA PRATAP SINGH:** That's a general problem not specific to SIAC.

14 **URVASHI S. PATHAK:** I always say that Litigation is you end up spending time and money.
15 So, it's always better to settle.

16 **VIJAYENDRA PRATAP SINGH:** No, no. I think it's a very fair point, and we'll come to
17 that in a moment.

18 **GAURAV KHANNA:** I'd like to note. If you can just come in here. One of my internal
19 presentations on Litigations, we say you walk in as a chicken and you come out as a sausage.

20 **VIJAYENDRA PRATAP SINGH:** So, when you do that transformation, it's not evolution,
21 it's just revolution. Now, we've seen this. And thanks Urvashi for pointing out the cost and how
22 it can be an aid towards facilitated discussion or a mediated solution. Gaurav, you talked about
23 your four C's, and I think we're going to have the English alphabet by the time we finish. In
24 your four C's you've talked about confidentiality. How important is it for you as a Client?

25 **GAURAV KHANNA:** Very important VP, because the example, one of the examples that I
26 gave was the proceedings that happened in London. This matter was on the issue of a disputed
27 patent. Now, none of the Parties would like a patent issue to be discussed in open. And
28 especially when the patent is around a drug, what impact can it have on the patients? The
29 efficacies of war, we'd like to keep it between Parties and not make it public. So, confidentiality
30 is very important for businesses.

TERES

1 **VIJAYENDRA PRATAP SINGH:** There you have it. When you're looking at advising, what
 2 happens in Court goes on to various things including Bar and Bench. If you don't want the Bar
 3 and the Bench to know about it, the arbitration actually serves as a good method of resolving
 4 without dissolving relationships. That brings me to what Urvashi had said aid to a mediated
 5 settlement and Justice Chandrachud, you've always been a strong advocate for mediate, don't
 6 litigate. Do you think the SIAC-SIMC Arb-Med-Arb Protocol incorporated in the 2025 Rules
 7 considers mediation and arbitrations as effectively two sides of the same coin, which both can
 8 co-exist to facilitate the object of closure without exposure? What are your views on it?

9 **JUSTICE D.Y. CHANDRACHUD:** Yeah. I think there's a very critical element in the SIAC
 10 Rules which is not to look at mediation and arbitration as two disjunct or disjunctive facets of
 11 any adjudicative process, but really, in that sense, correlated. A Party autonomy is probably at
 12 the highest in terms of mediation. I mean, as Section 89 of the Civil Procedure Code in India
 13 as well, says you can compel a party to mediate, but you can't compel a party to settle because
 14 whether to settle, a Party may decide not to settle on for completely untenable reasons. The
 15 choice is of the Party not to settle. There may be wages of not settling, which can then, of
 16 course, be imposed on a Party later. But, mediation in that sense is the completely Party
 17 autonomy side of the spectrum, where a Party decides whether it will be in their interest. And
 18 that's why we always believe that mediation is a win-win solution for both the Parties, because
 19 Parties in a mediated settlement gets something which is to their mutual advantage.

20 Arbitration, perhaps, is a little less on the complete element of Party autonomy, which you find
 21 in a mediation, because obviously there's an adjudicative process also involved in arbitration.
 22 But my own perception is that even in the procedural steps, in the processual steps, which take
 23 place in an arbitration, you emphasize party autonomy at every stage; not just to the point
 24 when you enter into the contract choose the seat or the institution through which you would
 25 arbitrate, which involves that element of party autonomy, but even once the arbitration begins,
 26 and I think good Arbitrators always try and ensure that Parties are coming as close together,
 27 whether it's in terms of the initial steps, drawing up their terms of reference. "Hey people, why
 28 don't you both sit down together and give us something, as opposed to leaving it to the Arbitral
 29 Tribunal", which you would never see happening in a Court. In a Court, Parties enter through
 30 different doors, and they exit through different doors. In the course of an arbitration, the
 31 emphasis always is on Counsel, Parties coming together, breaking common ground, Party
 32 appointed Experts. You expect the Experts to sit together and give you at least some agreed
 33 formulation to the extent that an agreed formulation is possible. So, in arbitration as well
 34 though, Parties are moving towards an adjudication, you are encouraging Parties to come
 35 together to see if there is some commonality of minds and which eventually would end in terms
 36 of a settlement.

TERES

1 So, I think it would be perhaps both reflective of the legal position as well as what happens in
2 the real world of arbitration, to regard arbitration and mediation not as two conflicting
3 terrains, but really involving the basic element of party autonomy. The Parties would decide,
4 and if they settle, so much the better. And really speaking, good arbitration processes are
5 facilitative towards encouraging Parties to find a common ground to see to what extent they
6 can reduce the things like how much evidence would we need, to reduce the element of conflict
7 and the adversarial parts of the adjudicatory process, and then hopefully encouraging them to
8 resolve the dispute by mediation.

9 **PROF. LAWRENCE BOO:** Just I want to add on because to say that I'm actually a born-
10 again mediation convert. Because I believe that arbitration, litigation, these are like methods
11 of disposing of disputes, whereas mediation actually resolved disputes. So, the fact that SIAC
12 Rules actually added or encouraged the adoption of Arb-Med-Arb is a wonderful step forward.
13 And in fact, I, as a practice... in practice, in my preliminary first procedural meeting will always
14 add a window in the timetable to, say, a window for parties to consider mediation. All you need
15 to do is to plan the idea in a Party's mind so that it does not come from the lawyers or from
16 one side. You put it in there as a proforma and say, window for parties to consider mediation.
17 Providing three weeks, four weeks doesn't matter, because that will prompt them to say, "Hey,
18 let's take this time to see whether we're going to consider mediation. So plan the idea, please".

19 **VIJAYENDRA PRATAP SINGH:** So, from a seed, will grow a tree and if it's your prayer,
20 you should have a say rather than just leave it to someone else to decide. Because you do know
21 what you can live with or live without. And therefore, Justice Chandrachud put it best it's party
22 autonomy at the highest. You can be forced to go there, but no one can force you to say yes.
23 Vivek, you've heard me say this before 'I' in SIAC stands for India. What did you have in mind
24 when you set up the rules, which was driven from an Indian market requirement or a
25 specificity?

26 **VIVEKANANDA NEELAKANTAN:** Thank you, VP. If you'll allow me to just look back in
27 time a bit, going back just about a decade and a bit more than that. In 2012, which I really
28 consider as a milestone moment in Indian arbitration, development and jurisprudence, you
29 had the **BALCO** decision, which for the first time in recent memory was a sense of urgency
30 from the Indian Supreme Court to set right the law to move towards seed-centric arbitration,
31 which focused on what the jurisdiction of the Indian courts, what the role of the Indian courts
32 is in relation to, particularly foreign-seated arbitration. And that, at least in my view, really
33 provided a huge fillip to arbitrations involving Indian Parties being conducted in places like
34 Singapore.

TERES

1 And then the second point, VP, I think, which is very important. When we talk about
 2 arbitration in India is the growth in the Indian economy in the last 15 years. I jotted down
 3 some numbers, and many of you will know this, of course, the GDP growth in India from 2010
 4 to 2025, is three times now, from 1.5 trillion to now 4.5 trillion. The foreign directed
 5 investment into India in that same period went from about USD 15 billion to now at about
 6 USD 70 billion, and the outflow of investment from Indian companies going outside has
 7 remained at about USD 20 to 30 billion, which... And if you follow the principle that disputes
 8 will follow commercial activity, it explains why you have such a large interest in international
 9 arbitration, why so many Indian lawyers, Arbitrators, companies have had experience with
 10 international arbitration. And that's reflected in our own experience.

11 In the last decade, we've had over 2,400 Indian parties involved in cases at the SIAC which
 12 has been over 1,400 cases that the institution has received, handled, managed which have
 13 involved Indian parties or India related disputes. So, at the remiss if I said India was not a
 14 factor in how the rules were framed and designed. Every single change that is made to the rules
 15 is certainly made with a view to how an Indian practitioner, how an Indian user, how an Indian
 16 court would receive it. And amongst others, of course, you have mechanisms to control cost,
 17 to provide cap costs. You have the scrutiny process in the SIAC Rules, which has also been
 18 fine-tuned in terms of the timelines that apply to it, which is something that we are quite proud
 19 of because we believe it contributes to the quality of decision-making and the eventual
 20 enforceability of awards that are made in SIAC arbitrations.

21 And perhaps, and we did a study internally at SIAC looking at SIAC awards and how they've
 22 been received by Courts all around. In particular, the Indian courts. In our assessment, we
 23 have not found a single SIAC award in the period from 2011 to 2022. There were refused
 24 enforcement or set aside by an Indian court, which speaks, in our view, to the quality of the
 25 decision-making, but also the approach of the Indian courts and how that has evolved in that
 26 last decade, starting, in my view, from **BALCO**. So many of, I think the provisions, including
 27 the streamlined procedure particularly, was also with a view that many small businesses don't
 28 bring claims to arbitration because of the perception, like Urvashi said that costs are high.
 29 Timelines may be too long, but here's a way of ensuring that those claims can be brought to
 30 arbitration, can be resolved and you have a decision in three months.

31 **VIJAYENDRA PRATAP SINGH:** So now moving to the next I, which is Inclusion under
 32 2025 Rules. My question goes to Justice Chandrachud. While you were on the Bench, you
 33 attempted to spearhead the movement of inclusion in appointment of Arbitrators in India on
 34 the *ad hoc* side. Do you think it's time that India welcomes diversity and appointment of
 35 Arbitrators? And how do you see it benefiting the process?

TERES

1 **JUSTICE D.Y. CHANDRACHUD:** VP, I'm happy we are talking about inclusion because
 2 in the Trumpian world the DEI now has become a bad word, Diversity, Equity and Inclusion.
 3 But fortunately, we are governed by constitutional values in India. And I'm proud to say that
 4 therefore, I belong to a society where we pride diversity, equity and inclusion, because I feel
 5 that's the heart of the stability which we have in India over the last 75 years; multi-religious,
 6 multi-lingual, multi-cultural and yet one nation, and I think that reflects our ethos.

7 I'll just give you a little bit of an anecdote, I mean, as I have before. I was talking to a very
 8 talented young woman lawyer the other day who had come to me to seek an opinion, and she's
 9 Head of Chambers. And she said a Client came to her and took instructions and gave
 10 instructions and they discussed the case. And then while leaving Chamber, she said, the Client
 11 turns to my junior, who happens to be a male lawyer, and says, "Please do this case very
 12 effectively." So, she said, this gave me an idea about the mindset. I'm Head of Chambers. I'm
 13 going to be arguing the matter, but he turns while leaving to my junior, who is a male and says,
 14 "I hope you'll be doing this well." I'm the person who is going to be arguing it.

15 I'm also asked this question. In a country of 1.4 billion people, you have one Supreme Court
 16 Judge who is a woman today. Is there something not fundamentally wrong with the system?
 17 Now, there are answers to that which we'll probably be looking at as we exit from this
 18 conversation. But I think it's important that you have to have more women in important
 19 positions of responsibility, be it in our Courts or be it in arbitrations. And why? I always
 20 believed as a Judge that having a woman on the Bench does not necessarily make for a more
 21 liberal outcome. If you feel that having a woman will give you a more liberal outcome, you're
 22 wrong. Because a woman is entitled to take a view either on the liberal end of the spectrum or
 23 the conservative end of the spectrum. You need women in important positions of responsibility
 24 in the adjudicative sphere, because women bring different lived realities. I think that's the key,
 25 that women bring lived realities which a woman only has to the adjudicatory process. And I
 26 sat with women who really enriched my own view of social and economic and political life, as
 27 we saw as a Judge.

28 You know, just to answer your question, when I was a young Judge at the Bombay High Court,
 29 we would be hearing these winding up petitions in company jurisdiction where there was no
 30 Arbitration Clause, small value company petitions were winding up, and I had always looked
 31 at the party and say, "Hey, why don't you go to arbitration?" And we'd appoint young lawyers
 32 who would then become Arbitrators, men and women, and they did a brilliant job about
 33 arbitrating at a time when arbitration was still to catch up.

TERES

1 And as a Section 11 Judge, and especially in the international commercial arbitrations in the
 2 Supreme Court, I made it a point to appoint women Lawyers as Arbitrators, and I thought that
 3 it's important that we give, we change the landscape by allowing for women to have important
 4 positions of responsibility. And again, they responded with a tremendous sense of
 5 responsibility, taking this up, not just as a sort of a professional brief, but something which
 6 would change the system by bringing in the presence of women across the spectrum. With
 7 legal education having caught up in India and more and more women, I mean, in the largest
 8 national law schools in India, over 50% of the women, 50% of the new batch of admissions are
 9 women in India. At the lowest levels of recruitment to the Indian judiciary, including in the
 10 nine Hindi Belt states, over 70% of the recruits are women now in India, which shows you that
 11 if you give a level playing field to women, they are succeeding like never before.

12 Now, how do we translate that to ensuring that women don't fall by the wayside as typically
 13 their responsibilities take over? Responsibilities in terms of child rearing, responsibilities in
 14 terms of family responsibilities towards aged parents, aged in-laws, the typical Indian family.
 15 And this we can do by ensuring that we have more women. And I think that's where
 16 institutional arbitration can make a huge difference to the landscape of getting more and more
 17 women into the workplace, and these women would then be mentors to other women who had
 18 joined the workspace that, "Hey, this is the person I look up to, women who are good Counsel,
 19 women who are good Judges, women who are good Arbitrators." So there is a lot I think in
 20 terms of diversity that institutional arbitration can really add up to.

21 This is a subject very close to my heart, so maybe I speak with almost indignation at the lack
 22 of adequate representation to women. You have women partners in law firms. You have young
 23 women lawyers who are doing brilliantly. You have young women judges who are doing well.
 24 I think the time has come to have more women fill up the arbitral space in India as well.

25 **VIJAYENDRA PRATAP SINGH:** So it's DEI not DIE, as the Trumpian world would put it.
 26 That puts me, I know we have come to the end of our time, two questions and I'm going to
 27 open it out to the panel in general with respect to the issue of technology. I can start with you,
 28 Judge. How do you see the Arbitrator becoming someone who facilitates readily the adoption
 29 of technology and environmentally conscious practice when they are administering an
 30 arbitration? Because at the end of the day, that is one of those hallmarks that have been
 31 introduced in the new SIAC Rules. And, how do you, when you're sitting there, not as a Court,
 32 because I know you've done that while you were sitting there as a Court to bring in that
 33 discipline. How do you bring that in when you're sitting there as a consent custodian to Parties
 34 who may or may not be willing?

TERES

1 **JUSTICE D.Y. CHANDRACHUD:** I think my years of experience as a Judge have shown
 2 me that the adoption of technology is something which institutional mechanisms can do better
 3 than any other mechanism. When COVID came down upon us in February 2020, the Indian
 4 judiciary made rapid strides to having hybrid hearings, to having virtual hearings, live
 5 streaming of court proceedings, digitization of caseloads and case management. Now, we
 6 couldn't have done this in an *ad hoc* area. It was only because we had the institutional heft
 7 behind us, both in terms of finances, the availability of infrastructure; and we did this
 8 completely in an open-source platform. We didn't do it in proprietary software. But
 9 institutional existence is crucial to the adoption of technology.

10 Now, I think in the arbitration area, as well, particularly with the growth of AI, there's so much
 11 which institutional mechanisms can achieve. First, in terms of global benchmarking.
 12 Arbitration requires privacy. So, you know, you adopt the privacy first as your design structure.
 13 Just a couple of things which I have to say on this. Institutional mechanisms can ensure that
 14 we will have AI-powered case management, something which *ad hoc* arbitration could never
 15 do. Two, Institutional Arbitration can ensure the deployment of predictive analytics, which,
 16 again, is an area which is full of promise in the deployment of technology. Third, something as
 17 basic as virtual hearings. I was fascinated in India, where Judges who had never opened a
 18 computer throughout their working lives are now all on virtual hearings just because it's
 19 become so efficient in cities instead of Arbitrators traveling from one end of the city to the
 20 other; great for lawyers, great for women lawyers.

21 We were talking of diversity. One thing which I've heard repeatedly from women professionals,
 22 and there are so many of you sitting here. I hope you share my view, is that virtual hearings
 23 have really made it productive for women to participate in the workspace whether it's in
 24 litigation or arbitration because you don't spend this unproductive time in Courts waiting for
 25 cases to reach. And then finally, apart from AI-powered case management, predictive
 26 analytics, and virtual hearings, the end-to-end digitization of court records, which we've been
 27 able to achieve in the Indian judiciary, I think can go into the arbitral space, also. When you
 28 have institutional arbitration like under the SIAC Rules. So, I think in terms of technology and
 29 particularly the deployment of AI, there's a huge amount which can be contributed.

30 And to answer in just one sentence, your last point, how do you ensure that parties adopt it?
 31 It really depends a lot also on the leadership, which Arbitrators put into place. As a judge, I
 32 found that we were completely paperless in my Court. But lawyers we would come within a
 33 huge case files, and I would always tell Senior Counsel, "Why don't you turn back and look at
 34 your own juniors who have their own iPads? Come on, I'm giving you a week to make that
 35 migration." And I found that a little bit of prod from the leader, the judge or the Arbitrator

TERES

1 really helps the process. You can't, in that sense, be a dictator, but you can certainly be a
 2 persuader by getting people to... And the young, honestly, this is somewhere where I think the
 3 experienced have to learn from the young because we have learned to navigate the digital
 4 space. Our young professionals are natively digital; they've grown up with technology. So, I
 5 think for the more experienced practitioners, just take back and allow yourselves to learn from
 6 the young people around you and you'll realize it's so simple. Technology is meant really not
 7 for the learned, but technology is meant for people who don't know anything about technology.
 8 The back-end of technology that is.

9 **VIJAYENDRA PRATAP SINGH:** That's very well put. Gaurav, you views on Latin to
 10 binary?

11 **GAURAV KHANNA:** I think, I echo Justice Chandrachud's views completely for me. So,
 12 thank you very much for making this a reality, because today while sitting in my office, I can
 13 participate in all the hearings across. There have been many hearings before the tax authorities
 14 that I have personally attended and argued matters while sitting in Gurgaon, whether it's
 15 Chennai or Kolkata. So, a big thank you to you for this. And to me, in my personal view, what
 16 it means is justice at the doorstep, it's a very, very inclusive thing that I can now relate to my
 17 case. I was sharing with VP yesterday evening something where as young lawyers we were
 18 trained to send out updates on the hearings to our Clients and our standard format used to be
 19 say that "We vehemently argued your matter, and the matter got adjourned." Well, actually it
 20 was adjourned. So, I think it's a big game changer. And it helps, say, if it's an arbitration in
 21 Singapore, London, anywhere, I can participate from there. Everything is digitized so I don't
 22 need to spend. I think sustainability also gets addressed with this. So, big thank you, sir.

23 **VIJAYENDRA PRATAP SINGH:** Professor Boo, I know you manage it efficiently.

24 **PROF. LAWRENCE BOO:** Yeah, of course, I must say that I agree with Justice
 25 Chandrachud and Gaurav's experience. I'm pleased to hear that you find that technology has
 26 brought the case closer to you without having to travel to attend, you can actually have live
 27 feed like this in your office hearing whatever is going on. We look back how years ago, when I
 28 first came to India, in my first case in 2004. And how somebody was there typing away with a
 29 typewriter and always had to pause. And it's so different now. And the most recent one was
 30 how it's working like that with no transcribing, no script writer. In other words, no Court
 31 reporter. It's AI and someone else is editing it. It's wonderful how India has moved and how
 32 the whole technology landscape has changed our practice. Now, I used to have hard copies
 33 then with CD-ROM, with USB and then hard disk, and now it's all on the cloud. We don't need
 34 to bring anything except your iPad or your notebook. So, it is wonderful and to hear users

TERES

1 saying that it is bringing the case closer to them. They can see all the documents as SIAC
2 gateway, just like Court they have their case filing system. Now, everyone can see. The users, I
3 mean, the Parties can see that for themselves. So, it's wonderful. But I want to add something
4 apart from technology and that is diversity that you shared about.

5 One of this rules that the unspoken rule that's the streamlined procedure, expedited
6 procedure. You might say what has it got to do with diversity, now opportunity? Actually, it's
7 an innovation that actually secretly there is underlying it. I'm not sure it's intended, but it has
8 got a spin off there, and that is for young people, young lawyers, young, aspiring Arbitrators;
9 guess, are they going to get the big cases? No. Unlikely. I've always been asked, how do I get
10 into this space as going to be an Arbitrator. All these are all men or women and men. Lindy.
11 So, how do we get into this space? So, we say. I always tell them, "The most difficult one is to
12 get your first case to be an Arbitrator before you call yourself an Arbitrator. You have not had
13 a first case." Whether you are a Fellow or a Chartered Arbitrator, it matters not. You need your
14 first case. The first case can come from institutions. The SIAC is one example, and with a
15 streamlined expedited procedure, it's a great opportunity for them to try out young people,
16 and that's how we hope to see, I believe is also SIAC's aspiration to see the new generation of
17 younger people. I know a lot of young people here in this House. So, it is a good opportunity
18 for them.

19 **VIJAYENDRA PRATAP SINGH:** So, internationalize and keep your eyes open. Urvashi?

20 **URVASHI S. PATHAK:** So, I absolutely agree with my Co-Panellists here. I'll come back to
21 the same point I was making earlier, e-filing, virtual hearings, VDR, case management, all of
22 that solves for one thing for companies, cost and time. And honestly speaking, if you come to
23 think of it, a startup in Bangalore or a mid-sized company in NCR, which would have not
24 thought of getting into an international arbitration today, without actually incurring the cost
25 of logistics, transport. And in fact, if the governing laws of India may also have an Indian
26 lawyer who will be arguing your case sitting out of Delhi or Bangalore. So, it has solved so
27 many things for smaller enterprises, for startups, so it is an absolute welcome move. Thank
28 you.

29 **VIJAYENDRA PRATAP SINGH:** That takes me to the last person who's going to talk about
30 the new gateway.

31 **VIVEKANANDA NEELAKANTAN:** Thank you, VP. I began by talking about software and
32 user interface. Gateway is our new user interface. And as you've heard, it's an e-filing system.
33 It's a document management storage system. It comes from our realization that traditional

TERES

1 means of storing the case record in an arbitration through your Dropboxes and Google Drives
 2 and so on. And not necessarily the most convenient, the most sustainable, the most secure and
 3 may not be accessible after a certain number of months, etc. We wanted to create a mechanism
 4 in means, one, for Parties to easily access filing, you can do that now through Gateway. You fill
 5 up a form, you pay with an e-wallet, if you need to, or a card. And then, it goes into a universe
 6 of documents, which becomes the case record for that arbitration available to Tribunals
 7 available to Parties and at no additional cost to you. So, again, like Justice Chandrachud said,
 8 you cannot be a dictator. So, we don't impose it on Parties, but we look to persuade Tribunals
 9 to use Gateway on their cases. We look to persuade Parties to use Gateway on their cases
 10 because it provides you a seamless means of digitizing the case record and accessing it on the
 11 go through the course of the arbitration. And it really goes back to our efforts at digitization.

12 Right from 2014, I don't think we have printed a single submission, correspondence, SIAC at
 13 all. We do not require hard copy submissions. Everything is done electronically, internally and
 14 in our external interface with Parties, and Gateway is a further evolution of that. Since 2020,
 15 we've had guidelines and guides on conducting virtual hearings, which COVID has taught us,
 16 works just as well, maybe even better in some situations. So, for us, digitization is necessary,
 17 it's inevitable. But it's also, I think, a component of sustainability and environmental
 18 sustainability. The new rules, in fact, contain a cue for Tribunals to raise the question of
 19 environmental sustainability at the first Case Management Conference with Parties and say,
 20 what methods can we adopt that will be environmentally sustainable? Whether it's virtual
 21 hearings, whether it's paperless case record, whether it's using Gateway? We leave that to
 22 Parties and Tribunals to figure out. But again, it's our cue of saying this is what is best practice.

23 **VIJAYENDRA PRATAP SINGH:** So, irrespective of whether you like technology or not,
 24 you definitely don't like paying for real estate. So at least from that perspective, ensure that
 25 technology becomes the new innovation in your life. With that, I'd like to thank the entire
 26 Panel for their incisive experience sharing. And, I don't know whether we have time for
 27 questions because I'm getting dirt from the lady in front of her. If there are any questions, we
 28 can open it out. Maybe two questions. There's one here and there's one gentleman behind. I
 29 can give you my mic.

30 **PAVANI REDDY:** I'll be very quick. I'm Pavani Reddy from Clyde & Co London. In terms of
 31 innovation in the arbitration space, I feel that there is a need for the Arbitrators sometimes.
 32 No disrespect. I mean, we all sit with the esteemed member of Arbitral Tribunals. When it
 33 comes to technology, I think sometimes they forget that the dispute they have in front of them
 34 is a multi-billion value and the technology plays such an important role because gone are the
 35 days when you would turn a page and you will see when you go back home, you can look at the

TERES

1 file, you get your assistant to look at the file and look at it. But now technology has advanced
 2 so much, that I feel that arbitration institutions, if they can spend some more money or effort,
 3 in fact, to get all the Arbitrators to do a minimum required course, they can manage that,
 4 because that way it will save so much time. Not that I'm saying they have to be adapted with
 5 every technology coming into the industry, but at least the basic requirements. So that will
 6 save a lot of time. And also assist the Parties because sometimes you get nervous. The
 7 Arbitrator may not be getting the point. That if it's a disclosure application, and we are talking
 8 about billions, you add when you search terms, we have to search the data, and you're using
 9 this AI to search the data and you use certain features. If the Arbitrator is not getting your
 10 point, then you get really worried because there is a lot at stake. So, I would be very happy
 11 whatever, if you have any views or how we can do that?

12 **JUSTICE D.Y. CHANDRACHUD:** *Apropos* this intervention. May I make a suggestion
 13 both Vivek and Professor Boo, which is that now different arbitral institutions are deploying
 14 technology on their own. You don't have a unified, say, technology between, say, LCIA or SIAC
 15 or ICC, naturally, or the PCA. It might be a good idea now that especially SIAC is adopting
 16 technology in such a big way with Gateway to put out very simple tutorials, tutorials for
 17 Arbitrators, tutorials for the users and a tutorial for the lawyers which would just make it very
 18 simple to understand on what the essential features of the Gateway are. I'm sure you're already
 19 thinking of doing it or you've done it already.

20 **VIJAYENDRA PRATAP SINGH:** They're on you.

21 **JUSTICE D.Y. CHANDRACHUD:** And I think that would be a very nice idea and perhaps
 22 then take this to the next level, which is to the law schools. Why don't we get some of the
 23 arbitral institutions to start talking to the law schools and get the young lawyers to be on the
 24 interface of technology? Just a suggestion.

25 **PAVANI REDDY:** Thank you so much. One observation I had. I'm sorry. After that, I'll close
 26 this. On inclusion, I couldn't agree more with Justice Chandrachud. Inclusion of women. Now,
 27 I'm not a feminist, but I think there is so much need about an inclusion. One example I would
 28 like to share. I went to a jurisdiction. It was a massive case involving billions. When we were
 29 in a boardroom, unfortunately, I was the only women. I was very happy about that but I had
 30 to use the restroom. And I said, "Where can I use the restroom?" And they looked at me.
 31 "Unfortunately, we only have it on the second floor for women", and I was on the 15th floor.
 32 So, you can imagine every company nowadays, whoever wants to invest in a company, the first
 33 thing they look at is how inclusive you are, how innovative the company is. So, if a company is

TERES

1 ignoring women and innovation, honestly, you are not looking at very good at innovation or
2 investment into the company. So, those are the two things I wanted to share. Thank you.

3 **VIJAYENDRA PRATAP SINGH:** I can see your hand, but I can see your eyes. One at the
4 back. Now, you can fight who's going to ask it. Or you can split it.

5 **LAKSHYA:** Hi, my name is Lakshya, and my question was use of the AI not only as the
6 support to the legal practitioners. But AI is stepping into the shoes of decision-makers. For
7 example, ICC recently announced that it is looking forward to use AI as an Arbitrator in
8 construction matter with document only construction arbitrations. So, I would love to hear the
9 view of the panel about this development and what are the possible implications about this.
10 Thank you.

11 **VIVEKANANDA NEELAKANTAN:** I was going to say we could be here all day. We wanted
12 to talk about that, maybe we should take that offline. I believe it was the ICDR that introduced
13 what you were referring to.

14 **PROF. LAWRENCE BOO:** Of course, when we talk about AI international arbitration, we
15 got to be careful as to whether the AI is substituting the Arbitrator. But I want to pick up your
16 suggestion that, if Parties really want to use the AI, I see no issue if both Parties produce their
17 best submissions and agree on a particular provider of the Generative AI and upload it and
18 agree on a solution to be binding between themselves. There shouldn't be any bar against that.
19 But, of course, we in arbitration, we believe that we human beings need to... When we use AI,
20 it must be limited to certain functions and not one that generates the solution. So, we have to
21 be careful on that. Thank you.

22 **JUSTICE D.Y. CHANDRACHUD:** I completely agree. Because AI, the deployment of AI
23 would be governed by basic principles of party autonomy. If both the Parties agreed that, well,
24 we would rather have an expeditious decision by AI, whatever 2.5 or 5.0, so be it, Parties agree
25 to it. But another very interesting area which we can really think of is predictive analysis. After
26 pleadings are complete and Parties have maybe even filed some of their basic evidence could
27 an AI assisted model not tell Parties what is likely to be the conclusion on the basis of the
28 record, to facilitate Parties to decide as to whether to settle? What is the likely trajectory of this
29 case, within limits, of course? And then the Party may decide, well, if this is what it is based on
30 a database, it might be worthwhile for me to explore the possibility of a settlement, and what
31 should be the parameters of the settlement? Both Parties could possibly have access to a
32 possible settlement of the dispute based on what AI would predict as a likely outcome of the
33 arbitration.

6 **VIJAYENDRA PRATAP SINGH:** And I think we should call it quits because I am seriously
7 getting killed. We'll take it offline, I promise. Thank you, everyone. I think we are holding you
8 back from coffee. We remain available to ask any questions. But before you leave the room, I'd
9 like to thank my Panellists. It's been a fabulous session. Thank you for being here and sharing
10 your candid views on this. Thank you.

14

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